

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Petition for Early Termination of Probation of:)
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)
MIKE MANSOUR ROSTAMI, M.D.)
)
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)
Physician's and Surgeon's)
Certificate No. A-50108)
)
Respondent.)

OAH No: 2007100133

Case No: 17-2001-117335

DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby accepted and adopted by the Medical Board of California, Department of Consumer Affairs, as its Decision in the above entitled matter.

This Decision shall become effective at 5:00 p.m. on February 21, 2008.

DATED January 22, 2008

MEDICAL BOARD OF CALIFORNIA



Barbara Yaroslavsky
Chair, Panel B

BEFORE THE
DIVISION OF MEDICAL QUALITY
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Petition for Early
Termination of Probation of:

MIKE MANSOUR ROSTAMI, M.D.
F/K/A MANSOUR POURROSTAMIAN,
M.D.

Physician and Surgeon's Certificate
No. A 50108

Petitioner.

Case No. 20-2007-183673

OAH No. 2007100133

PROPOSED DECISION

This matter was heard before Administrative Law Judge Jonathan Lew, State of California, Office of Administrative Hearings on December 4, 2007, in Sacramento, California.

Joel B. Douglas, Esq., appeared on behalf of Mike Mansour Rostami, M.D., who was also present.

Jennevee De Guzman, Deputy Attorney General, appeared on behalf of the Department of Justice.

The case was submitted for decision on December 4, 2007.

FACTUAL FINDINGS

1. On October 29, 1991, the Medical Board of California (Board) issued Physician and Surgeon's Certificate No. A 50108 to Mansour Pourrostamian, M.D. (respondent). On August 26, 1994, respondent's name was changed to Mike Mansour Rostami.

2. On September 5, 2002, and on September 24, 2004, an Accusation and First Amended Accusation, respectively, were filed against petitioner alleging that his actions in connection with his treatment of six patients between 1998 and 2002 constituted gross negligence, repeated negligent acts and failure to maintain adequate records.

3. On December 30, 2005, a Stipulated Settlement and Disciplinary Order was executed under which terms petitioner's license to practice medicine was revoked. However, the revocation was stayed and he was placed on probation for 35 months under specified terms and conditions including that he enroll in the Physician Assessment and Clinical Education Program (PACE) offered at the University of California at San Diego School of Medicine or in an equivalent training and/or educational program, that he take and pass an examination upon completion of such program, that his practice be monitored by another physician in his field of practice, and that he observe other standard terms and conditions of probation.

Petitioner has complied with all the terms and conditions of his probation. His probation is scheduled to terminate in February 2009.

4. Background. Petitioner completed his medical studies at the University of Tehran, and his residency in Obstetrics/Gynecology at Pahlavi Medical Center in Tehran, Iran. He moved to the United States and completed a second residency at Mount Sinai Hospital in New York. He has worked as the Medical Director and Chief General Practitioner at the South Bandar-Abbas General Health Center, Bandar-Abbas, Iran (1981-82); Medical Director, 22nd Bahman Clinic in Zanjun, Iran (1982-83); Medical Director of the Public Health Network, Shaft, Iran (1983-85); and Medical Director of Red Lion and Sun Clinic, Rasht, Iran (1985-87). After moving to the United States he worked as a General Practitioner with Clinica Medica Familiar, and Clinica Medica General in Los Angeles, California (1991-95). Between 1995 and 2000, petitioner served as the Clinic Director of San Judas Medical Group West.

He is currently the Medical Director of St. John's Urgent Care, 1119 N. Western Avenue, Suite G, Los Angeles, California. His practice is located in an economically depressed, medically underserved, largely Hispanic community. He has received recent recognition for service within his community.¹

¹ In 2006, petitioner received the following recognition: U.S. Congressional Certificate of Special Recognition for outstanding and invaluable service to the community (Community Research & Information Center); California Legislature Assembly Certificate of Recognition honoring recognition by the Community Research and Information Center that serves the Jewish Community of Southern California; State of California and Community Research and Information Center for recognition as an outstanding individual and for contributions to the City of Los Angeles; California State Board of Equalization recognition for dedication and outstanding service to the Los Angeles Jewish Community and to Jewish Communities worldwide; Los Angeles Sheriff's Department recognition for outstanding leadership and distinguished service to the Los Angeles Jewish Community and to Jewish Communities worldwide; and City of West Hollywood Certificate of Commendation in recognition for outstanding efforts and accomplishments.

5. Petitioner recognizes that he failed to adequately chart and document patient medical records. He acknowledges that his charting was "unacceptably cryptic with respect to supporting background and accessory data" and on his own initiative he enrolled in and completed the medical recordkeeping course offered by PACE in October 2003. He notes that this course provided him new insight "into the hows, whys, and wherefores – the importance of charting." The training he received, as well as the recordkeeping templates and strategies, "drove home the importance and need to be meticulous about documentation as well as rendering good patient care." Petitioner notes that the First Amended Accusation allegations relating to charting and recordkeeping practices all predated May 2002. By October 2003, the Board recognized that there had been dramatic improvement in petitioner's recordkeeping, its expert having reviewed over 1,000 pages of petitioner's patient records. Petitioner's progress in this respect prompted settlement on terms that allowed him to be eligible to petition for termination of probation after one year. The Stipulated Settlement and Disciplinary Order specifically included an "Evidence of Rehabilitation" section (Paragraph 10) that contained the following language:

Respondent has presented to the Division of Medical Quality copies of over one thousand pages of patient records to demonstrate the changes and improvements in Respondent's record keeping practices instituted subsequent to the commencement of this disciplinary proceeding. The records were submitted for evaluation by the Division's expert reviewer who found there was "a ninety percent improvement" in comparison to the records described in the First Amended Accusation.

6. Petitioner enrolled in the full PACE program, which consisted of a comprehensive assessment; including a two-day assessment of his physical and mental health, basic clinical and communication skills, medical knowledge, skill and judgment pertaining to his specialty or sub-specialty, and a minimum of 40 hours of clinical instruction in the area of practice in which he was alleged to be deficient. Petitioner also obtained over 200 hours of continuing medical education (CME) credits in 2006, and over 140 CME hours in 2007.

7. Petitioner included a letter in support of his petition from the Director of PACE, William A. Norcross, M.D. He confirms that petitioner completed and passed all elements of the PACE competency assessment, and completed the PACE medical recordkeeping course. Dr. Norcross is "quite confident that Dr. Rostami is a competent and safe primary care physician" and believes that he "demonstrates both competency and motivation to improve, and I hope he is given the opportunity to do so." Dr. Norcross offers the following insights into petitioner's medical practice:

I was impressed with his sincerity, insight and motivation. I believe that he delivers solidly competent primary care services to his patients, but as he himself freely admits, his biggest challenge is documenting that care fully. He understands that, and is motivated to work on that challenge. He has a very

busy practice and works long hours. We talked about ways he could improve his record-keeping in this busy practice. Currently, he does not see himself as "computer literate," but almost all of us felt this way at some time. He was surprised to learn that there were inexpensive electronic health records (EHRs) that are ideal for solo practices.

Petitioner continues to communicate with Dr. Norcross, and is working with him to learn more about EHRs. Petitioner's only reservation about the use of EHRs relates to patient privacy issues to the extent that insurance companies may gain access to certain patient information.

8. Petitioner also included a letter in support of his petition from his practice monitor, Eshagh Ezra, M.D. He has observed petitioner in a practice setting for over a year and believes petitioner "has provided medical care that has been up to standards and has fulfilled his obligations as a qualified medical service provider." Dr. Ezra noted that petitioner "has continually exercised appropriate medical judgment in reaching a diagnosis and formulating a treatment plan." In addition, Dr. Ezra observed that petitioner's charts and documentation have improved considerably, that he receives good reviews from his colleagues, and that he is respected and well-liked by patients and clinic staff. Dr. Ezra concluded:

I again confirm Dr. Rostami's ability to practice as a medical professional and highly recommend him without reservation. He has proven himself to be able to provide patient care with proper and adequate documentation. The community where Dr. Rostami practices is an underserved, low income area. The patients show a genuine adulation for Dr. Rostami and he is providing a wonderful service to the community.

9. Petitioner included a third letter from Joseph Eshaghian, M.D., Chief of Staff, Temple Community Hospital, Los Angeles. Petitioner has referred patients over the years to Dr. Eshaghian for ophthalmic care, and Dr. Eshaghian believes petitioner has demonstrated excellent medical judgment each time he has referred a patient for specialty consultation. He noted that petitioner is providing a "wonderful service" for the community he practices in, one that he characterizes as a high crime, underserved area. Dr. Eshaghian further noted that patients in this community tend to lack trust in their doctors, but that petitioner develops trust with his patients, treats them in a caring manner, and that patients from that community "love him and trust him."

10. Petitioner very much enjoys his work and the challenge of practicing in a medically underserved community. He learned to speak Spanish and is comfortable working in Downtown Los Angeles, East Los Angeles and now at St. John's Urgent Care. He favorably compares these neighborhoods to where he practiced in Tehran, finding similarities in the traditions and beliefs held among working class families. Petitioner gains satisfaction from doing something positive for this community. He

often serves patients who do not follow medical advice, who are non-compliant, mistrusting of physicians, and who engage in self-treatment. Nearly all his patients are walk-ins, and at one time he was seeing more than 200 patients per week. He now sees less than half that number.

Blue Cross dropped petitioner as a covered health provider when he was placed on probation. Petitioner transferred his Blue Cross patients to other providers, but continues to see a number of patients for no charge. Blue Cross and Health Net insurance recently conducted a review of petitioner's practice, consisting of a random review of charts of patients with chronic disease. His was one of the best scores in his region, as measured by least number of emergency room visits, patient survey data, patient morbidity and other measures. Petitioner received bonuses from Blue Cross and Health Net for each of the four years he was evaluated. Other than one patient referenced in the underlying Accusation, he has not had any lawsuits or claims filed against him by patients. Termination of probation would allow petitioner to restore his medical provider status with Blue Cross insurance.

11. Petitioner describes his experience in this case as a wake-up call. He notes that he "got the message" and early on started the correction process relating to medical recordkeeping. He values medical documentation very much and understands that many of the problems and concerns detailed in the Accusation were an outgrowth of his poor and incomplete charting/medical recordkeeping. He now writes down everything. At one time he refused to chart in front of his patients, believing that he was devoting to them less than his full attention and "stealing patient time." He feels differently now. He recognizes that important information may be forgotten if not documented, and that subsequent medical providers must know what has occurred, particularly with the increasing specialization and group practice approach to medicine.

12. Petitioner has fully addressed shortcomings in his medical recordkeeping which, by most accounts, was the problem that led to Board disciplinary action. He has taken full advantage of PACE during his probationary period, gaining the confidence and support of PACE Director Dr. Norcross, who fully supports granting the petition for termination of probation. Other physician references confirm that he is practicing good medicine at this juncture and that he will continue to do so. Petitioner is seeking early termination of probation, in part, because probation is a hindrance in terms of establishing his credentials with Blue Cross insurance. He has fully complied with every condition of probation. He is a highly regarded and valued member of the Los Angeles medical community. He is performing a wonderful service for the underserved minority community where he practices. No public interest would be served by having petitioner continue on probation with the Board at this time. His petition to terminate probation should therefore be granted.

LEGAL CONCLUSIONS

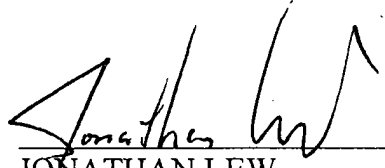
1. Under Business and Professions Code section 2307, a person whose certificate has been placed on probation may petition the Division of Medical Quality for modification of penalty, including termination of probation. At least one year must have elapsed from the effective date of the decision ordering the disciplinary action if the probation is less than three years. (Bus. & Prof. Code, § 2307, subd. (c).) That condition has been satisfied here. Petitioner was placed on probation for 35 months, commencing March 17, 2006.

2. The matters set forth in Findings 4 through 12 have been considered. Petitioner has made an impressive showing of rehabilitation. He has complied with all the terms of probation, he has submitted recommendations from Dr. Norcross and other physicians and surgeons who have personal knowledge of his activities since the disciplinary penalty was imposed, he has participated in a number of medical training and continuing education activities and he has continued to provide quality medical services within an underserved Los Angeles community. It would not be contrary to the public interest to terminate his probation at this time.

ORDER

The petition of Mike Mansour Rostami, M.D., for termination of probation is granted. Physician's and Surgeon's Certificate number A 50108 is fully restored.

DATED: December 31, 2007


JONATHAN LEW
Administrative Law Judge
Office of Administrative Hearings